

Safeco Insurance Companies
Safeco Plaza
Seattle, WA 98185

USDC SDNY
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DATE FILED: 4/22/08

PREMIUM: \$1,000.00

Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
NO. 08 CV 2993 (RJH)

VS.

PRELIMINARY INJUNCTION

Defendants

WHEREAS, by Order of the above entitled Court, Plaintiff E*TRADE FINANCIAL CORPORATION AND E*TRADE SECURITIES LLC, was required to file an undertaking in the sum of ONE HUNDRED THOUSAND AND NO/100 (\$100,000.00) ***** DOLLARS as a condition for a preliminary injunction to be in effect restraining and enjoining the above named Defendant MARCUS J. HERNANDEZ, SEAN J. GAFFEY, AND BANC OF AMERICA INVESTMENT SERVICES, INC., from the commission of certain acts as more fully set forth in said order.

NOW, THEREFORE, Safeco Insurance Company of America, a corporation organized and existing under the laws of the State of Washington and authorized to transact the business of Surety, as Surety, in consideration of premises and issuance of said preliminary injunction does hereby undertake to pay all costs and disbursements that may be decreed to the Defendant MARCUS J. HERNANDEZ, SEAN J. GAFFEY, AND BANC OF AMERICA INVESTMENT SERVICES, INC. and such damages not exceeding the amount of ONE HUNDRED THOUSAND AND NO/100 (\$100,000.00) ***** DOLLARS as the Defendant MARCUS J. HERNANDEZ, SEAN J. GAFFEY, AND BANC OF AMERICA INVESTMENT SERVICES, INC. may sustain by reason of said preliminary injunction if the same be wrongfully obtained and without sufficient cause.

IN WITNESS WHEREOF, we have set our hand and seal the 17TH day of APRIL, 2008

**Safeco Insurance Company of America**

SURETY

BY:

PAUL BOUCHER, ATTORNEY-IN-FACT



POWER
OF ATTORNEY

Safeco Insurance Company of America
General Insurance Company of America
Safeco Plaza
Seattle, WA 98185

No. 11614

KNOW ALL BY THESE PRESENTS:

That **SAFECO INSURANCE COMPANY OF AMERICA** and **GENERAL INSURANCE COMPANY OF AMERICA**, each a Washington corporation, does each hereby appoint

*****PAUL BOUCHER; LEONARD G. FODEMSKI; JANINA MONROE; TIMOTHY J. NOONAN; SUSAN THURSTON;
RAE L. ZACHARY; Los Angeles, California*****

its true and lawful attorney(s)-in-fact, with full authority to execute on its behalf fidelity and surety bonds or undertakings and other documents of a similar character issued in the course of its business, and to bind the respective company thereby.

IN WITNESS WHEREOF, **SAFECO INSURANCE COMPANY OF AMERICA** and **GENERAL INSURANCE COMPANY OF AMERICA** have each executed and attested these presents

this 26th day of July, 2007

STEPHANIE DALEY-WATSON, SECRETARY

TIM MIKOLAJEWSKI, SENIOR VICE-PRESIDENT, SURETY

CERTIFICATE

Extract from the By-Laws of **SAFECO INSURANCE COMPANY OF AMERICA**
and of **GENERAL INSURANCE COMPANY OF AMERICA**:

"Article V, Section 13. - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of **SAFECO INSURANCE COMPANY OF AMERICA**
and of **GENERAL INSURANCE COMPANY OF AMERICA** adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
- (ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
- (iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Stephanie Daley-Watson, Secretary of **SAFECO INSURANCE COMPANY OF AMERICA** and of **GENERAL INSURANCE COMPANY OF AMERICA**, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of these corporations, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 17TH day of APRIL, 2008



STEPHANIE DALEY-WATSON, SECRETARY

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STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Bond No. 6556878

On APRIL 17, 2008, before me, HEATHER WIN, a Notary Public in and for the above county, personally appeared PAUL BOUCHER who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she is Attorney-in-Fact of SAFECO INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the state of WASHINGTON, that the seal affixed to the foregoing instrument is the corporate seal of the said corporation, that the instrument was signed, sealed, and executed in behalf of said corporation by authority of its Board of Directors, and further acknowledged the said instrument and the execution thereof to be the voluntary act and deed of said corporation by his voluntarily executed.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

IN WITNESS WHEREOF, I have hereunto subscribed by name and affixed my official seal the day and year first above written.

My Commission Expires: JUNE 17, 2010



Notary Public

